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MINUTES OF REGULAR MEETING OF THE
PLANNING COMMITTEE
AND
ALAMEDA COUNTY RECYCLING BOARD

Thursday, March 14, 2019

4:00 P.M.

StopWaste Offices
1537 Webster Street
Oakland, CA 94612
510-891-6500

I. CALL TO ORDER

President Sarah Vared called the meeting to order at 4:05 p.m.

II. ROLL CALL OF ATTENDANCE

Jillian Buckholz, Recycling Programs
Bernie Camara, Recycling Materials Processing Industry
Deborah Cox, ACWMA
Nancy Deming, Environmental Educator
Dianne Martinez, ACWMA
John Moore, Environmental Organization
Tianna Nourot, Solid Waste Industry Representative
Dave Sadoff, ACWMA
Sarah Vared, Source Reduction Specialist
Francisco Zermeño, ACWMA

Absent:

Jim Oddie, ACWMA

Staff Present:

Wendy Sommer, Executive Director
Pat Cabrera, Administrative Services Director
Jeff Becerra, Communications Manager
Jennifer Luong, Financial Services Manager
Meghan Starkey, Senior Management Analyst
Farand Kan, County Counsel
Arliss Dunn, Clerk of the Board

Others Participating:

Tamara Galanter, WMA Counsel, Shute, Mihaly & Weinberger

III. ANNOUNCEMENTS BY PRESIDENT

There were none.

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IV. OPEN PUBLIC COMMENT

There was none.

V. CONSENT CALENDAR

1. **Approval of the Draft Minutes of February 14, 2019 (Jeff Becerra)**
2. **Board Attendance Record (Jeff Becerra)**
3. **Written Report of Ex Parte Communications (Jeff Becerra)**
4. **Grants Issued Under Executive Director Signature Authority (Wendy Sommer)**

There were no public comments for the consent calendar. Board member Martinez made the motion to approve the consent calendar. Board member Zermeño seconded and the motion carried 10-0: (Ayes: Buckholz, Camara, Cox, Deming, Martinez, Moore, Nourot, Sadoff, Vared, Zermeño. Nays: None. Abstain: None. Absent: Oddie)

VI. REGULAR CALENDAR

1. **Request for Board Action: Board Member John Moore's Representation of Antoinette Stein against the Waste Management Authority in Boone et al. v. Alameda County Waste Management Authority, California Court of Appeal, First Appellate District, Case No. A154804 (Wendy Sommer & Farand Kan)**

Staff recommends that the Board discuss this issue and make a decision on whether to provide consent or request withdrawal of Board member Moore regarding his representation of Ms. Stein in Boone et al. v. Alameda County Waste Management Authority.

Board members Moore and Nourot were recused from the item and vacated the meeting room. County Counsel Farand Kan notified the Board that Board member Moore would like to provide comments as a public citizen during the public comment period and would again vacate the room prior to the Board deliberation period.

Wendy Sommer provided a brief overview of the agency's role and timeline of events and recognized Tamara Galanter of Shute, Mihaly & Weinberger as Counsel for the WMA Board. Ms. Galanter is representing the WMA in the case of Boone et al. v. WMA and is available to answer any specific questions regarding the lawsuit. Mr. Kan is legal counsel for the Recycling Board. The item before the Board is not regarding the lawsuit itself but to discuss and decide whether to give consent to or request withdrawal of Board member Moore regarding his representation of Ms. Stein in the lawsuit against the WMA. Mr. Kan provided an overview of the California Rules of Professional Conduct and Conflict of Interest rules. A link to the staff report is available here: [Moore-Board-Action.pdf](#)

Board member Sadoff inquired if this issue is analogous to the two masters situation. Mr. Kan stated that it could be if there is an adverse client scenario and if there is a conflict then it's the initial client that need to provide the formal consent. Board member Zermeño stated that although the Board is not being asked to determine if a conflict exists, it could be a misperception if we don't act, and inquired if we asked Board member Moore to leave the Board and his representation is found to be a conflict of interest what would be our legal standing. Ms. Sommer clarified that the Board is not being asked to consider removing Board

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member Moore from the Board but to discuss and provide consent or request withdrawal of Board member Moore regarding his representation of Ms. Stein in the lawsuit against the WMA. Board member Buckholz inquired if Board member Moore was a member of the Recycling Board prior to representing Ms. Stein. Ms. Sommer stated yes.

President Vared opened the floor for public comments. Mary Lou VanDeventer, Arthur Boone and Toni Stein provided public comment in support of Board member Moore continuing to provide legal representation for Toni Stein. Board member Moore stated that he feels that he can continue to represent Ms. Stein as there is no conflict or adversity because Ms. Stein is not seeking any relief from the Recycling Board. There were no other public comments and the public comment period was closed.

Board member Martinez inquired about the parent/subsidiary issue. Ms. Galanter stated the WMA is the parent and the Recycling Board is clearly the subsidiary. Ms. Galanter stated that the Boone/Stein lawsuit is adverse to the WMA due to its action of approving the CoIWMP as well as the Recycling Board's action to recommend approval, which created the adversity. Ms. Galanter added any financial implications to the agency is not the issue. Ms. Galanter stated that attorneys are held to a high bar and in November of 2018 the Supreme Court approved new conflict of interest rules that an attorney sitting on a Board should treat the Board as if it were their client. President Vared inquired about any financial implications to the agencies. Ms. Galanter stated that she is unsure of the financial implications and that is not the issue. Board member Sadoff stated that he was extremely uncomfortable with this situation and made the motion to request withdrawal of Board member Moore regarding his representation of Ms. Stein in Boone et al. v. Alameda County Waste Management Authority. Board member Zermeño seconded and commented that the Recycling Board is a part of the WMA and any adverse action affects the Recycling Board as well and to allow Board member Moore to continue with representation is not a good perception.

The vote was 7-0-1. The Clerk called the role:

(Ayes: Buckholz, Camara, Cox, Deming, Martinez, Sadoff, Zermeño. Nays: None. Abstain: Vared. Absent: Oddie. Recused: Moore, Nourot).

2. Fiscal Year 2017-18 Audit Report (Jennifer Luong)

That the Recycling Board accept and file the FY 2017-18 audit report.

Jennifer Luong provided a summary of the staff report. A link to the report is available here:

[FY-17-18-Audit-Report.pdf](#)

There were no public comments on this item. Board member Zermeño made the motion to accept and file Fiscal Year 2017-2018 audit report. Board member Cox seconded and the motion carried 10-0: (Ayes: Buckholz, Camara, Cox, Deming, Martinez, Moore, Nourot, Sadoff, Vared, Zermeño. Nays: None. Abstain: None. Absent: Oddie).

3. Municipal Sword: Local Impacts of China's National Sword (Meghan Starkey)

This item is for information only.

Meghan Starkey provided an overview of the staff report and introduced the panelists: Tonya Richardson, City of San Leandro; Kathy Cote, City of Fremont; Marisa Gan, City of Livermore; and Heidi Obermeit, City of Berkeley. The panelists discussed the impacts of China's National Sword policy, which has had a dramatic negative impact on the ability of recycling commodities (such as mixed paper) to find markets.

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A link to the staff report is available here: [Muni-Panel-National-Sword.pdf](#). An audio link to the discussion is available here: [Muni-Presentation-03-14-19](#). Ms. Gan showed a short video entitled Livermore Recycles: Tips for Fridge Cleanout, available here: <https://www.youtube.com/watch?v=TH9SsgjuXME>

VII. COMMUNICATIONS/MEMBER COMMENTS

Board member Cox announced that on Tuesday, March 19, the City of San Leandro will be hosting an event to announce the partnership with Neste MY Renewable Diesel, a low-carbon fuel produced from 100 percent renewable and sustainable materials that cuts greenhouse gas emissions by up to 80 percent compared to petroleum diesel. It is the first of its kind company in California. Board member Cox added the city's fleet of vehicles have already switched to renewable fuel. Board member Zermeño announced that the City of Hayward Sustainability Committee and staff recommended to the City Council that the entire fleet of 475 vehicles switch to renewable diesel fuel. Board member Moore announced that on Tuesday, March 19, the Northern California Recycling Association will be hosting the Annual Recycling Update at the Freight and Salvage in Berkeley.

VIII. ADJOURNMENT

The meeting adjourned at 5:25 p.m.